

which it could be ascertained that the case might become removable on the basis of diversity of citizenship pursuant to 28 U.S.C. § 1332 if served. This notice is filed within thirty (30) days of review and service of that pleading.

3. The Plaintiff, Deondra Singleton, individually, and as Parent and Natural Guardian of John Doe, a minor under the age of 14 years, is a resident of Bamberg County, South Carolina.

4. Defendant, Variety Wholesalers, Inc., is a corporation organized and existing under the laws of the State of North Carolina with its principal place of business in the State of North Carolina, and, hence, is a citizen resident of the State of North Carolina. Variety Wholesalers, Inc. is the sole owner of its subsidiary Variety Stores, Inc., which is incorporated in the State of Delaware with its principal place of business in North Carolina.

5. As evidenced by the Plaintiff's Complaint, the amount in controversy is unstated, but plaintiff's counsel has failed to confirm there will be a limit of the award to under \$75,000, after request.

6. The United States District Court, South Carolina, for the Orangeburg Division is the district in which the State court action was filed. Removal to this Court and this division is proper under 28 U.S.C § 1332, 1441 and 1446 because this court has "diversity" jurisdiction.

7. Defendants are filing a copy of this notice with the Circuit Court for the Second District Judicial Circuit in and for Bamberg County, South Carolina, as required by 28 U.S.C. § 1446(d).

8. Composite Exhibit "A" constitutes all pleadings reviewed by the Defendants.

MEMORANDUM OF LAW

9. According to 28 U.S.C. §1441, “any civil brought in a state court of which the District Courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a). The defendant seeking removal to federal court must demonstrate that the district court has original jurisdiction of the action pending in state court, and if demonstrated, the action brought in state court may be removed based on diversity jurisdiction if the defendant is not a citizen of the state in which such action is brought. 28 U.S.C. § 1441(b).

10. The burden is on the party requesting removal to federal court to show that it has met all the applicable statutory requirements. Plaintiff has yet to identify store manager “Roe.” It is unknown how Plaintiff would identify Roe’s residency. Plaintiff identifies Variety Stores, Inc. and Variety Wholesalers, Inc. as foreign corporations in her Complaint. Variety Wholesalers, Inc. and its incorporated subsidiary Variety Stores, Inc. have their principal place of business in the State of North Carolina. As referenced above and asserted in Plaintiff’s State Court action, Plaintiff is a citizen of the State of South Carolina. Variety Stores, Inc. and Variety Wholesalers, Inc. are in fact foreign corporations and citizens organized and incorporated under the laws of North Carolina or Delaware with their principal places of business in North Carolina. Therefore, this action is between citizens of different states. Additionally, Plaintiff’s Complaint alleges that Variety Wholesalers, Inc. is financially responsible for an indeterminable sum not capped at \$75,000.00. As the amount in controversy exceeds the \$75,000.00 jurisdictional limit, this action meets the requirements of diversity jurisdiction pursuant to 28 U.S.C. § 1332. Since neither

Variety Stores, Inc. nor Variety Wholesalers, Inc. are citizens of the state where the state action was brought, the removal statute is fully satisfied pursuant to 28 U.S.C. § 1441 (b).

11. Finally, according to 28 U.S.C. § 1446, “notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendants, through service or otherwise, of a copy of the initial pleading...” 28 U.S.C. § 1446(b). Variety Stores, Inc. and Variety Wholesalers, Inc. have met this requirement by filing this Notice of Removal within thirty days of first notice.

WHEREFORE, Defendants, Variety Stores, Inc. and Variety Wholesalers, Inc., respectfully request that this action, currently pending in the Circuit Court of the Second Judicial Circuit in and for Bamberg County, South Carolina, be removed to the United States District Court for the District of South Carolina, Orangeburg Division.

Respectfully Submitted,

WILSON, HEYWARD & REESER, LLC

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Dated: August 1, 2022

VERIFICATION

The undersigned attorney affirms and states:

That he is one of the attorneys for the Petitioner herein and is authorized to sign this Notice of Removal for Petitioner. That he has prepared and read the foregoing Notice of Removal and the matters and things therein are true as he verily believes.

WILSON, HEYWARD & REESER, LLC

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